

23-804-cv
40 Days for Life v. County of Westchester

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 3rd day of June, two thousand twenty-four.

PRESENT: JOSÉ A. CABRANES,
GERARD E. LYNCH,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

40 DAYS FOR LIFE, a nonprofit
corporation of the State of Texas,
WHITE PLAINS 40 DAYS FOR LIFE,
as unincorporated association of the
State of New York, OKSANA
HULINSKY, REGINA CREARY
MOLINELLI,

Plaintiffs-Appellants,

JANE DOE, SALLY ROE,

Plaintiffs,

v.

No. 23-804-cv

COUNTY OF WESTCHESTER,

Defendant-Appellee,

COUNTY OF WESTCHESTER
COUNTY DEPARTMENT OF
PUBLIC SAFETY, TERRANCE
RAYNOR, Acting Commissioner of
the Westchester Department of
Public Safety, in his official capacity,
NEW ROCHELLE POLICE
DEPARTMENT, CITY OF WHITE
PLAINS DEPARTMENT OF PUBLIC
SAFETY, GEORGE LATIMER, Chief
Executive of the County of
Westchester, in his official capacity,

Defendants.

FOR APPELLANTS:

CHRISTOPHER A. FERRARA
(Michael McHale, *on the brief*),
Thomas More Society,
Whitestone, NY

FOR APPELLEE:

JOHN M. NONNA, Westchester
County Attorney (Justin R.
Adin, Shawna C. MacLeod,
Alida Marcos, *on the brief*),
White Plains, NY

Appeal from an order of the United States District Court for the Southern
District of New York (Philip M. Halpern, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the order of the District Court denying Plaintiffs-Appellants' motion for a preliminary injunction is AFFIRMED, and the cause is REMANDED for further proceedings.


We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal. Where, as here, "a preliminary injunction will affect government action taken in the public interest pursuant to a statute or regulatory scheme, the moving party must demonstrate (1) irreparable harm absent injunctive relief, (2) a likelihood of success on the merits, and (3) public interest weighing in favor of granting the injunction."

Friends of the E. Hampton Airport, Inc. v. Town of E. Hampton, 841 F.3d 133, 143 (2d Cir. 2016) (quotation marks omitted). Based on the limited record before us, we decide merely "that the district court did not abuse its discretion in finding that . . . injunctive relief was not warranted *at this time*." *New York by James v. Griep*, 11 F.4th 174, 178 (2d Cir. 2021) (emphasis added). We intimate no view regarding the ongoing discovery, the District Court's projected decision on a motion for summary judgment, and Plaintiffs' request for a permanent injunction on a more complete record.

Accordingly, the order of the District Court is AFFIRMED, and the cause is REMANDED for further proceedings.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

 Catherine O'Hagan Wolfe

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

 Catherine O'Hagan Wolfe 4